

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

**AKECHETA MORNINGSTAR
(formerly AUDRAY JOHNSON)**

PLAINTIFF

VS.

CIVIL ACTION NO. 3:18-cv-10-CWR-FKB

KELLY SERVICES

DEFENDANT

**DEFENDANT'S ANSWER TO COMPLAINT,
RELIANCE UPON JURY DEMAND AND AFFIRMATIVE DEFENSES**

(DEFENDANT RELIES UPON PLAINTIFF'S DEMAND FOR TRIAL BY JURY)

NOW COMES Defendant, KELLY SERVICES, by and through its attorneys, WILKINS PATTERSON, P.A., and for its Answer to Complaint and Affirmative Defenses, hereby states as follows:

PARTIES

In answer to the first paragraph, Defendant lacks sufficient information or knowledge upon which to admit the allegations contained therein and therefore denies same.

In answer to the second paragraph, Defendant admits the allegations contained therein.

JURISDICTION AND VENUE

In answer to the third paragraph, Defendant lacks sufficient information or knowledge upon which to admit the allegations contained therein and therefore denies same.

FACTS

In answer to the fourth paragraph, Defendant lacks sufficient information or knowledge upon which to admit the allegations contained therein and therefore denies same.

In answer to the fifth paragraph, Defendant admits that Kelly Services provided substitute teachers to the Jackson Public School District in 2016. Defendant lacks sufficient information or knowledge upon which to admit the balance of the allegations contained therein and therefore denies same.

In answer to the sixth paragraph, Defendant lacks sufficient information or knowledge upon which to admit the allegations contained therein and therefore denies same. Defendant Kelly Services is unable to discern who is referenced by the word “they” in this paragraph. If “they” refers to Kelly Services then Kelly Services denies the allegations as untrue.

In answer to the seventh paragraph, Defendant lacks sufficient information or knowledge upon which to admit the allegations contained therein and therefore denies same. Defendant Kelly Services is unable to discern who is referenced by the word “they” in this paragraph. If “they” refers to Kelly Services then Kelly Services denies the allegations as untrue.

In answer to the eighth paragraph, Defendant lacks sufficient information or knowledge upon which to admit the allegations contained therein and therefore denies same for the reason this paragraph involves allegations regarding the actions of “JPS” not Kelly Services.

CLAIM FOR RELIEF

In answer to the ninth paragraph, Defendant denies any violation of the ADA or attempts to aggravate any alleged sickness. Defendant lacks sufficient information or knowledge upon which to admit the balance of the allegations contained therein and therefore denies same.

DAMAGES

In answer to the tenth paragraph, Defendant denies Plaintiff is entitled to any damages in this matter.

AFFIRMATIVE DEFENSES

1. That Plaintiff's Complaint fails to state a claim upon which relief can be granted as a matter of fact and/or law.
2. That Plaintiff's Complaint is barred by the applicable statute of limitations.
3. Plaintiff's claims against Defendant are barred by an accord and satisfaction.
4. Plaintiff has failed to mitigate his damages, if any.
5. Defendant's decisions regarding Plaintiff were at all times motivated by legitimate, non-discriminatory reasons.
6. Plaintiff is not disabled as defined by ADA.
7. Plaintiff is not a qualified individual with a disability because he could not perform the essential functions of his job with or without an accommodation.
8. Plaintiff was reasonably accommodated.
9. Plaintiff was not substantially limited in any major life activity.
10. Plaintiff failed to exhaust his administrative remedies.
11. Plaintiff's claims are based in whole or in part on the actions of third parties not within the control of Kelly Services.
12. Defendant did not have a duty to accommodate Plaintiff.
13. No accommodations could have been provided for Plaintiff to work inasmuch as the accommodation would have imposed an undue hardship upon Defendant.

14. Plaintiff's claims, in whole or in part, are barred by the applicable jurisdictional prerequisites.

15. That Defendant reserves the right to amend these affirmative defenses in accordance with federal procedural law.

RESPECTFULLY SUBMITTED,

By: /s/Amy C. Felder
AMY C. FELDER (MSB No. 10667)

OF COUNSEL:

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CERTIFICATE OF SERVICE

I, AMY C. FELDER, do hereby certify that I have electronically filed the foregoing with the Clerk of the Court using the ECF system which will send notification of such filing to all participating attorneys, and furnished a copy to **Akecheta Morningstar, 109 Colonial Circle, Jackson, MS 39211**, by first class mail through the U.S. Postal Service, correct postage attached thereto.

THIS the 2nd day of May, 2018.

/s/ Amy C. Felder
AMY C. FELDER